

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADRIANNA JARRETT, et al.,

Plaintiffs,

v.

[24]7.AI, INC.,

Defendant.

Case No. 23-cv-00677-EMC

**ORDER RE SUPPLEMENTAL
BRIEFING**

Docket No. 86

The Court has reviewed the motion for preliminary approval and orders that the parties file a joint supplemental brief on the issues identified below. If the parties have different views on any issue, they can simply provide their respective positions in the joint filing. A party may also indicate that it takes no position on any issue. The supplemental briefing shall be filed within a week of the date of this order.

A. Maximum Value of the Case

Plaintiffs have provided an estimate of the maximum value of the case. That estimate is predicated on 6-8 minutes of off-the-clock per day. What evidence supports 6-8 minutes of off-the-clock work per day? Why did Plaintiffs allege significantly more minutes in the operative pleading? *See, e.g.*, FAC ¶ 59 (alleging 10-20 minutes for booting up, logging in, etc.); FAC ¶ 72 (alleging 2-7 minutes for logging in during the meal period); FAC ¶ 79 (alleging 2-60 minutes for post-shift or “After Call Work”); FAC ¶ 85 (alleging that Plaintiffs each had 10-60 minutes of off-the-clock work).

B. FLSA Claim v. Rule 23 Claims

The settlement agreement provides for an “FLSA bucket” and a “Rule 23 bucket.” Is this

1 because the FLSA claim is limited to overtime, and the common law claims limited to failure-to-
2 pay for work performed? What supports the percentage split between the two buckets (*i.e.*, 74%
3 and 26% respectively)?

4 C. Direct Deposit

5 Have the parties discussed whether direct deposit may be an option (instead of checks)?
6 The Court understands that the FLSA requires an opt in, but direct deposit may be an option for
7 some collective/class members (*e.g.*, those who have already opted into the collective, current
8 employees who do not opt out of the Rule 23 class).

9 D. Attorneys' Fees

10 Although Plaintiffs intend to file a separate fee motion later, the Court still needs some
11 information now to evaluate the reasonableness of the settlement which includes a fee component.
12 Plaintiffs shall provide information about their lodestar (*i.e.*, hourly rates and hours incurred). An
13 estimate is acceptable. For hours incurred, Plaintiffs shall provide an estimate of hours incurred
14 for each major litigation task. The Court assumes that, if there is less than a full fee award, the
15 money would not revert back to Defendant but rather would be distributed to the collective/class.

16 E. Collective/Class Notice

17 The Court has the following comments on the collective/class notice and related
18 documents at Docket No. 86-2 (Exhibits A-C).

19 1. Collective/Class Notice

- 20 • ECF Page 38. The second paragraph, which is in ALLCAPs and bolded, should be
21 rephrased to indicate that a monetary award is available and what the estimated
22 award is.
- 23 • ECF Page 39. For the chart, should the option "GO TO THE 'FINAL APPROVAL
24 HEARING'" be combined with the "OBJECT" option?
- 25 • ECF Page 41. For Question 6, should an individual also be referred to
26 collective/class counsel as a resource (and not just the settlement administrator)?
- 27 • ECF Page 44. The response to Question 13 is a little confusing since the question
28 is "Do I have a lawyer in this Action" and the response provides information about

both Class Counsel and defense counsel.

- ECF Page 47. There is a typo in the response to Question 17 (“submitting *an* Opt Out Request,” not “submitting *and* Opt Out Request”).

2. Opt-Out Form

- ECF Page 50. Is the title of the form (“Election Not to Participate in Settlement”) a little confusing given that the notice refers to excluding oneself from the settlement or opting out?

3. Class Member Information Sheet

- ECF Page 52. What is the purpose of the form? The title suggests that it is to ensure that the settlement administrator has the correct contact information, but, presumably, the settlement administrator already has the correct contact information in order for the individual to get a copy of the form in the first place. Is the purpose of the form to give an individual an opportunity to contest the number of workweeks? Note that the form – like the opt-out form – refers to an election not to participate which may be confusing.

IT IS SO ORDERED.

Dated: June 18, 2024


EDWARD M. CHEN
United States District Judge